

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

BYRON MARTIN,  
Plaintiff,

v.

STEVEN GOLD, PAUL BROSSEAU,  
KEITH TALLON, ELLEN McWARD,  
MICHAEL FOISY, JAMES KAMEL,  
STEPHEN LAVOIE, DUSTIN  
WARBURTON, KEITH REILLY,  
THOMAS POWELL, DIANE BOGDAN,  
ROBERT HOFMANN, RICHARD BESS,  
SUE JAMES, TRINA NUTTER, and  
CELESTE GIRRELL, KEVIN ODDY,  
and BERNADETTE DEWING,  
Defendants.

File No. 1:05-CV-28

**ORDER**

The Magistrate Judge's Report and Recommendation was filed December 29, 2006. (Paper 94.) After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). The defendants'<sup>1</sup> motion for summary judgment (Paper 79) is GRANTED in part and DENIED in part. The plaintiff's "bad day" claim, his requests for a declaratory judgment on each of his claims, and all claims against defendants Gold, Hofmann and Powell are DISMISSED. Plaintiff's request for punitive damages on his vegetarian diet claim are DISMISSED. The motion for summary judgment otherwise is DENIED.

The matter is hereby returned to the Magistrate Judge for further proceedings.

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<sup>1</sup> Defendants' Motion for Summary Judgment was filed on behalf of all defendants except Paul Brosseau, Sue James, Trina Nutter and Celeste Girrell.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 8<sup>th</sup> day of February, 2007.

/s/ J. Garvan Murtha

J. Garvan Murtha

United States District Judge